



# Civil Resolution Tribunal

Date Issued: September 18, 2023

File: SC-2022-008622

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Piper v. Hellyer*, 2023 BCCRT 784

BETWEEN:

JESSICA PIPER

**APPLICANT**

AND:

ALANA HELLYER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Nav Shukla

## INTRODUCTION

1. The applicant, Jessica Piper, says they paid the respondent, Alana Hellyer, \$70 in total for a remote, t-shirt, necklace and bracelet. The applicant says they never received these items from the respondent and the respondent has failed to repay them. So, the applicant seeks \$70 from the respondent in this dispute. The applicant is self-represented.

2. The respondent denies she owes the applicant any money. She says the applicant gifted her the remote and never paid for the t-shirt, necklace and bracelet. The respondent is represented by a friend who is not a lawyer.

## **JURISDICTION AND PROCEDURE**

3. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness.
4. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
5. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

## **ISSUE**

6. The issue in this dispute is whether the applicant is entitled to the claimed \$70, or some other amount, from the respondent.

## **EVIDENCE AND ANALYSIS**

7. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities (meaning "more likely than not"). I have considered all the parties' submitted evidence and argument but refer only to what I find relevant to provide

context for my decision. I note the applicant did not provide any written argument, despite having the opportunity to do so.

8. The applicant's brief Dispute Notice says that they are "owed money for products paid for and never received" and that they are "owed money, have been told [they] would receive it back and have no clear site of when that will be" (reproduced as written). In the Dispute Notice, the applicant breaks down their \$70 claim as follows: "Remote 21.27", "Tshirt 25", and "Necklace and bracelet 24". So, I infer the applicant alleges they paid the respondent \$21.27 for a remote, \$25 for a t-shirt, and \$24 for a necklace and bracelet but never received these items.
9. The applicant's limited evidence includes a screenshot of e-transfers that I find shows they sent the respondent \$17 on August 16, \$20 on August 25, \$5 on September 7, and \$22 on September 20, 2022, totaling \$64. The e-transfers contain no memo or description to show what the payments were for. In submitting the screenshot as evidence to the CRT's online portal, the applicant described the document as showing e-transfers for the "items" they never received from the respondent. The respondent denies these e-transfers relate to the items the applicant claims for. More on the e-transfers below.
10. I turn first to the applicant's \$21.27 claim for the remote control. In her submissions, the respondent explains the parties had known each other for many years and had recently become best friends before a more recent breakdown in their relationship. The respondent says that the applicant gifted her a remote control on September 21, 2022 as a surprise "friendship gift". She says that she offered to pay the applicant back twice and the applicant repeatedly told her it was a gift and not to worry about it. The respondent's evidence includes a screenshot of Facebook messages between the parties from September 21. Based on these messages and the respondent's submissions, I find the applicant ordered a \$21.27 TV remote using the respondent's Amazon account on September 21. While I find the applicant used the respondent's Amazon account to place the order for the remote, the evidence does not show who paid for the remote. There is no evidence of any e-transfers from the applicant to the

respondent after September 20, the day before the applicant ordered the remote. However, since the respondent does not argue that she paid for it, and since she says that she offered to repay the applicant for the remote, I find the applicant likely paid for it.

11. The question then is whether the respondent must repay the applicant for the remote. As noted above, the respondent alleges the remote was a gift. Under the law of gifts, the person who received the alleged gift (here, the respondent) must prove that the applicant intended the remote to be a gift, and that the respondent accepted the gift. Once a person gives a gift, the gift cannot be revoked (see *Pecore v. Pecore*, 2007 SCC 17).
12. The only documentary evidence before me about the remote are the September 21 Facebook messages provided by the respondent. In these messages, the applicant thanked the respondent for letting them use the Amazon account, provided a screenshot showing the remote's purchase, and said "Don't hate me".
13. The respondent says that she dislikes "random surprises", and the applicant knew that. So, I find a likely explanation of the applicant's "don't hate me" message is that they were acknowledging the respondent's dislike for surprise gifts. Notably, the applicant provided no evidence or argument to dispute the respondent's assertion that the remote was a gift. Further it is unclear why the applicant would not have had the remote delivered to their home address instead of the respondent's if they had purchased it for themselves. There is also no evidence before me that the applicant ever inquired with the respondent about when they could expect to receive the remote (which I find from the Facebook messages was likely delivered to the respondent on September 25), something I find the applicant would have likely done had they purchased the remote for themselves. Under these circumstances, I find it appropriate to draw an adverse inference against the applicant and find that they likely purchased the remote as a gift for the respondent. I find that once the respondent received the remote, the applicant could not then revoke the gift or make

the respondent pay for it. So, I find applicant is not entitled to the claimed \$21.27 for the remote.

14. I turn now to the applicant's \$25 claim for a t-shirt and \$24 claim for a necklace and bracelet that they say they paid the respondent for but never received. As noted above, the respondent says the applicant never paid for these items. The respondent provided undated messages between the parties where she told the applicant that she was going to send them a necklace and t-shirt. In her submissions, the respondent explains that she had asked the applicant what they wanted for Christmas and ordered a t-shirt and a necklace to give to them as a Christmas gift. I infer the respondent never sent the alleged Christmas gift to the applicant due to a breakdown in the parties' friendship.
15. There is no evidence before me, such as a receipt, order confirmation, or dated messages between the parties showing when the t-shirt, necklace, and bracelet that the applicant says they paid the respondent for were ordered. Nor is there any evidence about how much the alleged items were purchased for.
16. While the applicant provided the screenshot mentioned above showing the e-transfers they sent to the respondent between August 16 and September 20, they did not explain what these payments were for in any detail. The respondent says that the e-transfers were for an unrelated clothing order that she had placed together with the applicant. Notably, the amounts in the e-transfers do not match the amounts the applicant claims for the t-shirt, necklace, and bracelet. As mentioned above, the burden is on the applicant to prove their claims. Here, I find the applicant has failed to prove that they paid the respondent for a t-shirt, necklace or bracelet that they did not receive. So, I find the applicant is not entitled to any payment from the respondent for these items. I dismiss the applicant's claims accordingly.
17. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Here, neither party paid any CRT fees, nor do they claim any dispute-related expenses. So, I order no reimbursement.

## **ORDER**

18. I dismiss the applicant's claims and this dispute.

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Nav Shukla, Tribunal Member